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10/618,003	07/10/2003	Jerald C. Seelig	619.625	4382

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EXAMINER	
HARPER, TRAMAR YONG	
ART UNIT	**PAPER NUMBER**
3714	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/618,003	SEELIG ET AL.	
	Examiner	Art Unit	
	Tramar Harper	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *69-120* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *69-120* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Examiner acknowledges Request for Continued Examination (RCE) filed on 4/10/06. Examiner acknowledges amendments/arguments filed on 4/10/06. The arguments set forth are addressed herein below. Claims 69-120 are pending and Claims 1-68 have been canceled.

Claim Rejections - 35 USC § 112

Claims 89 & 100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to what prior position of elements applicant is claiming. Is applicant claiming the position prior to actual game play or position after actual game play? Appropriate correction is required.

Claim 120 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is in regards to a method claim that claims a specific order, but insinuates that the order is not necessary (preamble). The first position has to be determined before it can be return to a first position. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 69-88, 90-99, and 101-119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (GB 2,062,922 A) in view of Stupak (US 6,024,642).

Claim 69-72, 74, 77, 79-81, 83-84, 88, 90, 92-93, 95-96, 99, 101, 104-109, 112-113, 115-116, 118: Parker discloses a coin-operated or coin-free slot machine that comprises of a nudge game, wherein a player inserts coins for play within the gaming machine. The gaming machine, which inherently has to encompass a controller for implementing the game, runs a game that comprises of a nudge type game, wherein a player presses a start button (6) to start the spin of the reels, which comprises symbols mounted thereon and the gaming machine randomly determines a winning or losing outcome. At the end of the normal spin (*when the game is not being played*), a special nudge feature becomes randomly available to the player. The nudge feature or buttons at that time are available to the player for use. The nudge feature allows the player to move the reels up in a *second* direction or down in the previous direction, by pressing buttons (10) or (11), such that the player is allotted the opportunity to achieve a major award or prize. The player is given a certain amount of time to use the nudge feature and thereafter the feature becomes unavailable (Pg. 1:5-60, Pg. 2:10-85, Fig. 1). Thus, the input device to nudge is unavailable during normal game play and encompasses the situation wherein the player doesn't activate or push the nudge button at all. Parker suggests that the nudge feature is made available at a random basis and that the invention is geared toward providing more variety and excitement using nudging as a

basis (Pg. 1:38-42). The nudge feature only affects the outcome of the current game and not any prior games played. Parker excludes triggering the special nudge feature e.g. the ability to move the reels to provide a major award after a predetermined threshold of consecutive losses has been achieved during the normal play of the game. However, Stupak discloses a slot and/or *video* machine that comprises of a base game that triggers a major jackpot or award when the player achieves a certain amount of consecutive losses on the machine. A controller within the game with related software keeps track of the outcomes to trigger the major jackpot award. Stupak discloses that players lose interest in a game after losing several games in a row and as a result the game becomes disappointing and not fun. The player is more likely to quit playing and the casino in turn loses a betting patron (Col. 1:20-30 & 49-55, Col. 3:7-50). In this case, Parker's gaming machine achieves a major award through the special nudge feature randomly and doesn't necessarily compensate those players that lose regularly, thus player interest could decrease even with the nudge feature. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming machine of Parker with the special feature/award triggering event of Stupak to improve player retention on a gaming machine. By giving the player opportunities to win an award whether during winning plays or losing plays of a game as disclosed above.

Claims 73, 82, & 94: Parker in view of Stupak discloses the above with respect to the claims 69-70, 80, & 92, but excludes the threshold number of losing outcomes being determined randomly. Parker in view of Stupak discloses the nudge feature or buttons

are active after a predetermined threshold of losing outcomes has been reached. However, Applicant has failed to disclose that determining the losing outcome threshold randomly solves a particular problem or provides an advantage. One of ordinary skill in the art furthermore, would have expected the gaming machine of the combination of Parker in view of Stupak, and applicant's invention, to perform equally well with either the threshold of losing outcomes being predetermined, as taught by Parker in view of Stupak, or the claimed randomly determined losing threshold because both would perform the same function of activating a special feature or input device/button to help compensate for players that lose several times on a gaming machine.

Therefore, it would have been prima facie obvious to modify Parker in view of Stupak to obtain the invention as claimed because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Parker in view of Stupak.

Claim 75, 87, 103, & 117: Applicant discloses that alternatively the prize/bonus display may be a stand-alone device allowing a player to place a wager and play a game (¶ 40). Therefore, the game of Parker in view of Stupak discloses a game wherein reels or bonus indicator/s are moved in a first direction there after e.g. at the end of the game play, a player is given the opportunity by pressing an input device to move the indicators in a at least a second direction to determine or achieve an award (see above).

Claim 76: Parker in view of Stupak disclose the above with respect to Claims 75 & 69, but excludes explicitly a second controller in communication with the main controller. Parker discloses that the gaming machine is capable of allowing the player to nudge the

reels in either an up or down direction and therefore inherently has to have a means whether mechanical or through circuitry for doing so (see above with respect to nudging). However, Applicant has failed to disclose that having a second controller solves a particular problem or provides an advantage. One of ordinary skill in the art furthermore, would have expected the gaming machine of the combination of Parker in view of Stupak, and applicant's invention, to perform equally well with either the mechanical or electrical reel moving means of Parker in view of Stupak, or the claimed second controller in communication with a main controller because both would perform the same function of providing a means moving reels in a first or second direction.

Therefore, it would have been prima facie obvious to modify Parker in view of Stupak to obtain the invention as claimed because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Parker in view of Stupak.

Claim 78, 91, 102, 110, & 119: Parker in view of Stupak discloses the above with respect to claim 69, 79, 92, 106, & 115, but excludes movement of the reels at a first speed related to the first movement and a second speed related to the second movement. Parker in view of Stupak discloses moving the reels in a first direction during normal play and a different direction during the special nudge feature (see above). However, Applicant has failed to disclose that the movement of the reels at a first speed related to the first movement and a second speed related to the second movement solves a particular problem or provides an advantage. Moreover, Applicant discloses that the movement of the reels in a first direction and second direction or the

different reels both relate to provided an erratic movement to the player and contribute into the player feeling as though something out of the ordinary is occurring. One of ordinary skill in the art furthermore, would have expected the gaming machine of the combination of Parker in view of Stupak, and applicant's invention, to perform equally well with either a first movement/direction of reels and a second movement/direction of reels, as taught by Parker in view of Stupak, or the claimed movement of the reels at a first speed related to the first movement and a second speed related to the second movement because both would perform the same function of providing an erratic movement indicative of a special feature or something out of the ordinary occurring.

Therefore, it would have been prima facie obvious to modify Parker in view of Stupak to obtain the invention as claimed because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Parker in view of Stupak.

Claims 85-86 & 97-98: Parker in view of Stupak discloses the above with respect to claims 79 & 92, but excludes disabling the player input device if a cash-out event occurs or if a new player is introduced to the gaming machine. Parker in view of Stupak discloses that the player has a certain period of time to use the nudge buttons and thereafter the buttons are unavailable and the feature ends (see above). However, Applicant has failed to disclose that disabling the player input device if a cash-out event occurs or if a new player is introduced to the gaming machine solves a particular problem or provides an advantage. Moreover, Applicant discloses that any one of the above ways of disabling the player input device respective of the special feature may be

used e.g. lists them as equivalent (¶ 57). One of ordinary skill in the art furthermore, would have expected the gaming machine of the combination of Parker in view of Stupak, and applicant's invention, to perform equally well with either disabling the player input device after a certain period of time, as taught by Parker in view of Stupak, or the claimed disabling the player input device if a cash-out event occurs or if a new player is introduced to the gaming machine because both would perform the same function of providing a means for disabling the special feature input device when the device is deemed unusable.

Therefore, it would have been prima facie obvious to modify Parker in view of Stupak to obtain the invention as claimed because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Parker in view of Stupak.

Claim 114: Parker in view of Stupak discloses the above with respect to claim 106, but excludes the number of consecutive outcomes of the same type comprise of a threshold number of winning outcomes. Parker in view of Stupak discloses the nudge feature or buttons are active after a predetermined threshold of losing outcomes has been reached (see above). However, Applicant has failed to disclose the number of consecutive outcomes of the same type comprise of a threshold number of winning outcomes solves a particular problem or provides an advantage. Moreover, Applicant discloses that the special feature can be made available at any time including a threshold of winning or losing outcomes reached e.g. lists them as equivalent (¶ 55). One of ordinary skill in the art furthermore, would have expected the gaming machine of

the combination of Parker in view of Stupak, and applicant's invention, to perform equally well with either the consecutive outcomes being the threshold number of losing outcomes, as taught by Parker in view of Stupak, or the claimed consecutive outcomes being the threshold number of winning outcomes because both would perform the same function of providing a means for enabling a special feature.

Therefore, it would have been prima facie obvious to modify Parker in view of Stupak to obtain the invention as claimed because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Parker in view of Stupak.

Response to Arguments

Applicant's arguments with respect to claims 69-120 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 89 and 100 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 120 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sakamoto (US 6,315,663) discloses a gaming machine that comprises moving elements in a first and then second direction.

Poole (US 6,375,570) discloses a gaming machine that comprises of bonus game wherein the elements move in a first and second direction and/or spin from a previous position back to a same position.

McAllister et al (US 6,942,571) discloses a gaming machine that provides the player to alter the direction and speed of reels.

Farrell (GB 2,225,889 A) discloses a gaming machine wherein a player attempts to stop various reels at various speeds to obtain an award.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714

TH

5/11/07